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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,045	10/27/2003	Gerald Goertzen	12873/04325	5698
24024	7590	10/20/2005	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP			SPISICH, GEORGE D	
800 SUPERIOR AVENUE			ART UNIT	
SUITE 1400			PAPER NUMBER	
CLEVELAND, OH 44114			3616	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/695,045	Applicant(s) GOERTZEN ET AL.	
	Examiner George D. Spisich	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-11 and 13-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,21-28 and 31 is/are allowed.
- 6) ☒ Claim(s) 1,6,9,10,13-20,29 and 30 is/are rejected.
- 7) ☒ Claim(s) 5,7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/24/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,6,9,10,13,15-20,29 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tran et al. (USPUB 2004/0032119).

Tran et al. (as shown in Fig. 8 and discussed in col. 4, paragraph [0034]) discloses a suspension for a vehicle having a frame and a releasable locking assembly comprising a toothed surface (138) that is movable with respect to the frame. The releasable locking assembly defining a plurality of selectively actuatable locking states (as part 130 can engage part 138 at multiple locations) ranging from a first position to a second position and at least one other position between the first and second positions, the plurality of states being selectively actuatable upon the frame exhibiting a tipping behavior.

The toothed surface comprises a stepped surface (140) and is coupled to a pivot arm (88) attached to the frame.

The movement of the frame is limited in a first direction by the locking assembly and wherein movement in a second direction is not limited by the locking assembly.

The releasable locking assembly comprises a first assembly (138) movably coupled to the frame (via pivot arm 88) and a second assembly (130) movably coupled to the frame.

The first assembly comprises a first undulating surface (since it undulates with the movement of the pivot arm 88) and the second assembly comprises a second undulating surface. Each of the first and second undulating surfaces comprise at least one tooth (the engaging area of element 130 is considered a tooth) and they are configured to engage and disengage from each other.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tran et al. (USPUB 2004/0032119).

Tran et al. has been discussed in the prior rejection. However, Tran (at least in Figure 8) does not show at least one of the locking members as having an arcuate surface.

Tran et al. as shown in at least Figure 7 shows at least one member (118) of the releasable locking assembly having an arcuate surface (along the toothed area). This arcuate surface engages with a single tooth member to releasably lock. Although it is likely that Tran et al. would provide for element 138 to optionally include an arcuate surface that engages element 130, it is not shown.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide element 138 in Figure 8 of Tran et al. with an arcuate surface as shown in Figure 7 of Tran et al. for engaging element 130 since it would provide a positive engaging orientation as is shown in Figure 7 for releasably locking the arrangement together.

### ***Allowable Subject Matter***

Claims 11,21-28 and 31 are allowed.

Claims 5,7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich  
October 17, 2005



PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600